Lawrence A. Anderson
Attorney at Law, P.C.
300 4th Street North
P.O. Box 2608
Great Falls, MT 59403-2608
Telephone: (406) 727-8466

Attorney for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

Dale Fossen, et al.,	)	
	)	**Cause No.: CV 09-61-H-CCL**
Plaintiffs,	)	
	)	
-v-	)	**AFFIDAVIT OF**
	)	**DALE FOSSEN**
Blue Cross Blue Shield of Montana, Inc.,	)	
	)	
	)	
Defendant.	)	

---

1. My name is Dale Fossen, and I live at Fossen Brothers Farms, 305 3rd St. W., P.O. Box 102, Joplin, MT 59531.

2. During all times relevant hereto, Fossen Brothers Farms was a partnership, consisting of farm corporations incorporated in Montana and respectively entitled D and M Fossen, Inc., L and C Fossen, Inc., and M and C Fossen, Inc. Brothers Dale Fossen, Larry Fossen, and Marlowe Fossen are the presidents of each these respective corporations (hereinafter collectively referred to as "Fossen Brothers").

3. Fossen Brothers Farms, the Fossen brothers, and their corporations reside in and farm in both Hill and Liberty Counties in the state of Montana.

4. In December 2003 and January 2004, Roger Olson of the Olson Insurance Agency of Chester, Montana, on behalf of Blue Cross Blue Shield of Montana offered to enroll the Fossen Brothers in what he characterized as a "true pool risk plan" offered by Associated Merchandisers, Inc. (AMI). He informed us that we would be rated once and only once for the plan and would not be rerated during our participation. He informed us that any increase in premiums would be a pool wide rate increase that everyone would share equally.

5. Mr. Olson gave me an application form with a Blue Cross Blue Shield logo and the heading "ASSOCIATED MERCHANDISERS, INC. (AMI) GROUP HEALTH BENEFITS PLAN EMPLOYER ELECTION FORM." I filled out this form, a copy of which is attached to this affidavit as Exhibit 1. From the heading on the application, as well as from Mr. Olson's explanation, I believed that the "group" or risk-sharing pool into which we were buying consisted of all the small businesses subscribing to AMI. I believed that all these small businesses would be rated together, so that premium increases would be the same for all.

6. In or about April 2006, Blue Cross increased the Fossen Brothers' AMI premium by over 21%. The insurance agent, Roger Olson, told us that some members of the AMI group were incurring premium increases of 7%, 9%, and 24%, and some members were receiving decreases of up to 9%. I complained to

the Insurance Department of the Montana State Auditor's Office regarding this increase.

7. In 2009, Blue Cross Blue Shield changed the AMI Plan to the Montana Chamber Choices Plan. On behalf of Fossen Brothers, I filled out an application form entitled "MONTANA CHAMBER CHOICES ASSOCIATION 2009 GROUP HEALTH BENEFITS PLAN EMPLOYER ELECTION FORM." A copy of this application is attached to this affidavit as Exhibit 2.

Dated this 16 day of March 2010.

Dale Fossen

SUBSCRIBED AND SWORN TO before me this 16 day of March 2010.

MARTIN WOOD
NOTARY PUBLIC for the
State of Montana
Residing at Joplin, MT
My Commission Expires
May 02, 2010

(NOTARIAL SEAL)

Notary Public for the State of Montana
Martin Wood
(Typed or printed name of Notary)
Residing in Joplin
My Commission Expires: May 2, 2010

Blue Cross Blue Shield of Montana

An Independent Licensee of the Blue Cross and Blue Shield Association

X 59184-207

ASSOCIATED MERCHANDISERS, INC. (AMI)
GROUP HEALTH BENEFITS PLAN EMPLOYER ELECTION FORM

Fossen Brothers Farms		Dale Fossen
Company Name		Group Contact Name
305 Main St. W.	P.O. Box 102	(406) 292-3250
Service Address	Mailing Address	Telephone Number
Joplin	MT.	59531
City	State	ZIP

1. Employer Tax Identification Number. If you have no TIN, Social Security Number 81-0934165
2. For the current calendar year (January –Present), state the total number of employees* 3
   Have you had 20 or more employees during 20 or more work weeks? ☐ Yes ☒ No
   Do you expect to have 20 or more employees during at least 50% of your typical business days? ☐ Yes ☒ No
3. For the previous calendar year (January 1–December 31), state the total number of employees 3
   Did you have 20 or more employees during 20 or more work weeks? ☐ Yes ☒ No
   Did you have 20 or more employees during at least 50% of your typical business days? ☐ Yes ☒ No
4. Number of employees eligible for this benefit plan 3 Employees

Answer the following questions for both Health and Life Benefit Plans	Health	Life (optional)
5. Group waiting period (probationary period)	90 Days	90 Days
6. Number of work hours per week required to be eligible for benefits	32 Hours	32 Hours
7. Employer contribution ($ or %) to premium	100% Employee	100% Employee
	100% Dependent	100% Dependent

************ BENEFIT OPTIONS ************

Medical Plan Options (Mandatory) — RATE LEVEL Table 6	Life Benefit
☒ Traditional Health First 50/50 $500 Deductible	☒ Yes
☐ Traditional Health First 70/30 $500 Deductible	☐ No
☐ PPO Health First 50/50 $500 Deductible	
☐ PPO Health First 70/30 $500 Deductible	
☐ Blue Saver 100/0 $5,000 Deductible $500 Primary Care Benefit	

renewal

Requested Effective Date 6-1-2004 I certify that all information provided by me to complete this application is true.

Dale Fossen	partner
Printed Name of Owner or Officer of the Group	Title
Dale Fossen	April 2, 2004
Signature of Owner or Officer of the Group	Date

Please Submit to Blue Cross and Blue Shield of Montana, P.O. Box 4309, Helena, MT 59604

RECEIVED HELENA DISTRICT OFFICE
APR 07 2004
BLUE CROSS AND BLUE SHIELD OF MONTANA

RECEIVED APR 15 2004
APR 7 2004 ENROLLMENT TEAM BLUE CROSS & BLUE SHIELD OF MONTANA

MSS

EXHIBIT 1 tabbies

Case 6:09-cv-00061-CCL Document 1-3 Filed 10/15/2009 Page 6 of 6

BlueCross BlueShield of Montana
Live Smart. Live Healthy.

MONTANA CHAMBER CHOICES ASSOCIATION
2009 GROUP HEALTH BENEFITS PLAN EMPLOYER ELECTION FORM

MCC SUBGROUP NO. 80M

Group Name: Fossen Brothers Farms
Group Contact Name: Dale Fossen

Physical Address: 305 Third St. W.
Mailing Address: P.O. Box 102
Telephone: 406 292-3230
FAX: 406) 292-3296

City: Joplin State: Mt. Zip Code: 59531
City: Joplin State: Mt. Zip Code: 59531
E-Mail Address:

1. Employer Tax Identification Number. If you have no TIN, Social Security Number: 81-0593465
2. Coverage for Sole Proprietor/Owner-Operator? ☐ Yes ☒ No (If Yes, do not complete questions 3-6)
3. For the current calendar year (January 1–Present), state the total number of employees: 3
   Have you had 20 or more employees during 20 or more work weeks? ☐ Yes ☒ No
   Do you expect to have 20 or more employees during at least 50% of your typical business days? ☐ Yes ☒ No
4. ~~For the previous calendar year (January 1–December 31), state the total number of employees:~~ 3
   ~~Did you have 20 or more employees during 20 or more work weeks?~~ ☐ Yes ☒ No
   Did you have 20 or more employees during at least 50% of your typical business days? ☐ Yes ☒ No
5. Current number of employees 3 Number of eligible employees 3 Number of enrolled employees 3
   If your group is COBRA eligible, COBRA will be administered by BCBSMT.
6. If COBRA eligible, number of COBRA participants enrolling N/A
7. Group waiting period (probationary period): *(Must not exceed 110 days):* apply to health, vision, dental and life plans — 90 Days
8. Number of work hours per week required to be eligible for benefits: 32 Hours
9. Employer contribution to premium (% or $): *(Must be at least 50% for employee)* — 100 % or $____ Employee; 100 % or $____ Dependent

Please review definitions on reverse.

BENEFIT OPTIONS

☐ Health First HealthLink
- ☐ $500 Deductible 60/40
- ☐ $500 Deductible 70/30
- ☐ $1000 Deductible 50/50
- ☐ $1500 Deductible 80/20

☐ Big Sky Select ☐ 50/50; $25 Office Visit ☐ 60/40; $15 Office Visit
☐ CMM 70/30 HealthLink ☐ $200 Deductible
☐ CMM 50/50 HealthLink ☐ $200 Deductible ☐ $1,000 Deductible
☒ CMM-HSA Eligible HealthLink
☒ $2500 Deductible; 100/0 ☐ $5000 Deductible; 100/0

$5000 Life and $5000 Accidental Death & Dismemberment Benefit (Included with all Medical Options)

Dental Plan
- ☐ $25 Deductible (Includes Orthodontia)
- ☐ $50 Deductible
- ☒ NO

Vision Plan
- ☐ Yes
- ☒ No

Helena District Office
MAY 06 2009
RECEIVED

Effective Date: Renewal 6/1/2009

Rate Level: 9

I certify that all information provided by me to complete this application is true.

Printed Name of Group Leader: Dale Fossen
Title: General Partner
Representative Name: Renee M...
Signature: [signature]
Date: 4-29-09
Representative

RECEIVED MAY 08 2009 ... TEAM

ENTERED

EXHIBIT 2

CHAMBERCHOICES 1/2009